

E-Filed 3/4/09

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,
v.
MATTHEW RIEDER,
Defendant

Case Number CR 02-20010

**ORDER TERMINATING REQUEST
FOR SENTENCE MODIFICATION
FILED DECEMBER 5, 2007**

[re: document no. 31]

In correspondence dated November 29, 2007, Defendant Matthew Rieder requested that the Court modify his sentence to reflect credit for time served in state prison. The Clerk of the Court filed this correspondence on December 5, 2007.

On September 19, 2008, the Court issued an order (1) stating that Defendant's request properly should be construed as a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255, and (2) explaining that characterization of Defendant's request as a § 2255 motion might have serious consequences for Defendant. The Court granted Defendant thirty days in which to file a document informing the Court whether he wished to proceed under § 2255, and informed Defendant that if he did not file such a document, the Court would assume that he wished to withdraw his letter request. Defendant did not file a response to the Court's

1 order within the time provided, and still has not filed a response.

2 Accordingly, Defendants' request for sentence modification (document no. 31) is
3 TERMINATED.

4 IT IS SO ORDERED.

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8 DATED: 3/4/09

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11 JEREMY FOGEL
United States District Judge

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1 Copies of Order served on:

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3 Counsel for Plaintiff:

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